

SB0030



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0030

Introduced 1/10/2019, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

New Act

Creates the Workplace Transparency Act. Provides that employers shall not require an employee or prospective employee to sign a nondisclosure agreement that contains any provision that has the purpose or effect of: limiting the disclosure of sexual misconduct, retaliation, or unlawful discrimination; suppressing information relevant to an investigation into a claim of sexual misconduct, retaliation, or unlawful discrimination; impairing the ability of any person to report a claim of sexual misconduct, retaliation, or unlawful discrimination; or waiving a substantive or procedural right or remedy of any person relating to a claim of sexual misconduct, retaliation, or unlawful discrimination. Provides that any such provision is void as against public policy and unenforceable, and that agreements that contain such provisions and were entered into before the effective date of the Act are voidable by a party who entered into the agreement under specified circumstances.

LRB101 03974 TAE 48982 b

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Workplace Transparency Act.

6 Section 5. Findings and purpose. Over one-third of the US
7 workforce is bound to their company by a nondisclosure
8 agreement. Nondisclosure agreements can force employees to be
9 silent about sexual misconduct, retaliation, and unlawful
10 discrimination. Nondisclosure agreements most often contain a
11 provision that waives a substantive or procedural right or
12 remedy related to claims of sexual harassment, retaliation, or
13 unlawful discrimination. It is therefore the intent of the
14 General Assembly to narrow the application of nondisclosure
15 agreements and render unenforceable boilerplate language that
16 places resolution of sexual harassment, retaliation, or
17 unlawful discrimination claims with private arbiters.

18 Section 10. Definitions.

19 "Sexual harassment" has the same meaning as set forth in
20 Section 2-101 of the Illinois Human Rights Act.

21 "Employee" has the same meaning as set forth in Section
22 2-101 of the Illinois Human Rights Act.

1 "Employer" has the same meaning as set forth in Section
2 2-101 of the Illinois Human Rights Act.

3 "Unlawful discrimination" has the same meaning as set forth
4 in Section 1-103 of the Illinois Human Rights Act.

5 Section 15. Prohibited agreements.

6 (a) An employer shall not require an employee or
7 prospective employee, as a condition of employment or continued
8 employment, to execute or renew a nondisclosure agreement,
9 waiver, or other document that:

10 (1) prohibits or attempts to prohibit the disclosure of
11 claimed sexual misconduct, retaliation, or unlawful
12 discrimination;

13 (2) suppresses or attempts to suppress information
14 relevant to an investigation into a claim of sexual
15 misconduct, retaliation, or unlawful discrimination;

16 (3) impairs or attempts to impair the ability of any
17 person to report a claim of sexual misconduct, retaliation,
18 or unlawful discrimination to an appropriate person; or

19 (4) purports or attempts to waive a substantive or
20 procedural right or remedy of any person relating to a
21 claim of sexual misconduct, retaliation, or unlawful
22 discrimination.

23 (b) Any such provision described in subsection (a) of this
24 Section is void as against public policy and unenforceable.

25 (c) This Section does not prohibit a settlement agreement,

1 entered into between an employer and employee or former
2 employee claiming sexual harassment, retaliation, or unlawful
3 discrimination, from containing confidentiality provisions as
4 agreed to between the parties.

5 (d) An agreement, contract, settlement, or similar
6 instrument containing a provision contrary to this Section that
7 was entered into on or before the effective date of this Act is
8 voidable by a party who entered into it under any of the
9 following circumstances:

10 (1) while under duress in the execution of the
11 agreement, contract, settlement, or similar instrument;

12 (2) while incompetent or impaired at the time of
13 execution of the agreement, contract, settlement, or
14 similar instrument; or

15 (3) while a minor at the time of execution of the
16 agreement, contract, settlement, or similar instrument,
17 regardless of whether the person was represented at the
18 time by counsel, a guardian, or a parent.